

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

JESSICA RODRIGUEZ, LA'QUISHA HARRIS  
and ASHLEY WHITE on behalf of themselves and all others similarly  
situated

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael R. Miller, Esq. of MARGOLIS EDELSTEIN; 215.922.1100  
(Phone), 170 S. Independence Square W., The Curtis Center, Suite  
400E, Philadelphia, PA 19106-3337

**DEFENDANTS**

INFINITE CARE, INC.

County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question  
(U.S. Government Not a Party)  
☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT**

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. §§ 2101-2109 et seq.

Brief description of cause:  
WARN Act litigation

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$  
according to proof

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/06/2015

SIGNATURE OF ATTORNEY OF RECORD

/s/ Michael Miller

*Michael Miller*

APR 8 2015

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM** to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: c/o Margolis Edelstein, 170 S. Independence Mall W., Suite 400E, Philadelphia, PA 19106

Address of Defendant: 6423 Rising Sun Avenue, Philadelphia, Pennsylvania 19111

Place of Accident, Incident or Transaction: Philadelphia, Pennsylvania

*(Use Reverse Side For Additional Space)*

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases

(Please specify) Worker Adjustment and Retraining Notification

Act of 1988, 29 U.S.C. §§ 2101-2109 et seq. (the "WARN Act")

**ARBITRATION CERTIFICATION**

*(Check Appropriate Category)*

I, Michael Miller, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: April 6, 2015

Michael Miller

Attorney-at-Law

306904

Attorney I.D.#

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: April 6, 2015

Michael Miller

Attorney-at-Law

306904

Attorney I.D.#

JESSICA RODRIGUEZ, LA'QUISHA HARRIS : CIVIL ACTION  
and ASHLEY WHITE et al., :  
v. :  
INFINITE CARE, INC. : NO.

April 6, 2015	Michael Miller	Plaintiffs
Date	Attorney-at-law	Attorney for
215-922-1100	215-922-1772	mmiller@margolisedelstein.com
Telephone	FAX Number	E-Mail Address

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

-----  
JESSICA RODRIGUEZ, LA'QUISHA HARRIS and  
ASHLEY WHITE on behalf of themselves and all  
others similarly situated,  
c/o Margolis Edelstein  
The Curtis Center  
170 S. Independence Mall W.  
Philadelphia, PA 19106-3337

**COMPLAINT – CLASS ACTION  
JURY DEMAND**

Plaintiffs,

v.

INFINITE CARE, INC.,  
6423 Rising Sun Avenue  
Philadelphia, Pennsylvania 19111

Defendant.  
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Jessica Rodriguez, La'quisha Harris and Ashley White (collectively, the  
“Plaintiffs”) on behalf of themselves and a class of those similarly situated, by way of Complaint  
against Infinite Care, Inc., (hereinafter referred to as “Defendant”), by and through their counsel  
alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action for collection of unpaid wages and benefits for sixty  
(60) calendar days pursuant to the Worker Adjustment and Retraining Notification Act of 1988,  
29 U.S.C. §§ 2101-2109 *et seq.* (the “WARN Act”). The Plaintiffs were employees of the  
Defendant until they were terminated as part of, or as a result of a plant closing ordered by the  
Defendant. As such, the Defendant is liable under the WARN Act for the failure to provide the  
Plaintiffs and the other similarly situated former employees at least 60 days’ advance written  
notice of termination, as required by the WARN Act.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1331 and 29 U.S.C § 2104 (a)(5).

3. The violation of the WARN Act alleged herein occurred in this District and more particularly Philadelphia, Pennsylvania. Venue in this Court is proper pursuant to 28 U.S.C § 123 (b)(2).

### **THE PARTIES**

4. Upon information and belief, at all relevant times Defendant was a Pennsylvania corporation which maintained a facility at 6423 Rising Sun Avenue, Philadelphia, Pennsylvania 19111 (the “Facility”).

5. At all relevant times, Plaintiffs were employees who were employed by Defendant and worked at or reported to the Facility until their termination without cause on or about February 27, 2015.

6. On or about February 27, 2015, and thereafter, Defendant ordered the termination of the Plaintiffs’ employment together with the termination of approximately 1,325 other employees who worked at or reported to the Facility as part of a plant closing as defined by the WARN Act, for which they were entitled to receive 60 days’ advance written notice under the WARN Act.

7. At or about the time the Plaintiffs were terminated, Defendant ordered the termination of approximately 1,325 other similarly situated employees who worked at or reported to the Facility (the “Other Similarly Situated Employees”).

### **CLASS ACTION ALLEGATIONS – 29 U.S.C. § 2104 (a)(5)**

8. Pursuant to 29 U.S.C. § 2104 (a)(5), the Plaintiffs maintain this action on behalf of themselves and on behalf of each of the Other Similarly Situated Employees.

9. Each of the Other Similarly Situated Employees is similarly situated to the Plaintiffs in respect to his or her rights under the WARN Act.

10. Defendant was required by the WARN Act to give the Plaintiffs and the Other Similarly Situated Employees at least 60 days' advance written notice prior to their terminations.

11. Prior to their terminations, neither the Plaintiffs nor the Other Similarly Situated Employees received written notice that complied with the requirements of the WARN Act.

12. Defendant failed to pay the Plaintiffs and the Other Similarly Situated Employees their respective wages, salary, commissions, bonuses, accrued holiday pay and accrued vacation for sixty (60) days following their respective terminations and failed to make 401(k) contributions and provide them with health insurance coverage and other employee benefits.

**CLASS ACTION ALLEGATIONS - RULES 23 (a) and (b)**

13. The Plaintiffs bring this action on their own behalf and, pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of themselves and the other employees who worked at the Facility and were terminated as part of a plant closing ordered by the Defendant at the Facility on or about February 27, 2015 and thereafter (the "Class").

14. The persons in the Class identified above (the "Class Members") are so numerous that joinder of all Class Members is impracticable.

15. There are questions of law and fact common to the Class Members that predominate over any questions affecting only individual members.

16. The claims of the representative parties are typical of the claims of the Class.

17. The representative parties will fairly and adequately protect the interests of the Class.

18. The Plaintiffs have retained counsel competent and experienced in complex class action employment litigation.

19. A class action is superior to other available methods for the fair and efficient adjudication of this controversy—particularly in the context of WARN Act litigation, where individual Plaintiffs and Class Members may lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate defendant.

20. There are questions of law and fact common to the Class Members that predominate over any questions solely affecting individual members of the Class, including but not limited to:

- (a) Whether the Class Members were employees of the Defendant who worked at or reported to the Facility;
- (b) Whether Defendant terminated the employment of the Class Members as part of a plant closing without cause on their part and without giving them 60 days' advance written notice;
- (c) Whether the Defendant may rely on the WARN Act's "unforeseeable business circumstances" or "faltering company" defense; and
- (d) Whether Defendant's failure to provide 60 days' notice should render it liable to the Class Members for 60 days' pay and benefits.

**CLAIM FOR RELIEF**



21. At all relevant times, Defendant employed 100 or more employees, exclusive of part-time employees, or employed 100 or more employees who in the aggregate worked at least 4,000 hours per week exclusive of hours of overtime within the United States as defined by the WARN Act and employed more than 50 employees at the Facility.

22. At all relevant times, Defendant was an “employer,” as that term is defined in 29 U.S.C. § 2101(a)(1) of the WARN Act and 20 C.F.R. § 639.3(a).

23. On or about February 27, 2015 and thereafter, the Defendant ordered a “plant closing” at the Facility as that term is defined by 29 U.S.C. § 2101(a)(2) of the WARN Act.

24. The Plaintiffs and the Class Members who were terminated by Defendant as a result of Defendant ordering a plant closing at the Facility on or about February 27, 2015 and thereafter were “affected employees” as defined by 29 U.S.C. § 2101(a)(5) of the WARN Act.

25. The Plaintiffs and each of the Class Members are “aggrieved employees” of the Defendant as that term is defined in 29 U.S.C. § 2104 (a)(7) of the WARN Act.

26. Pursuant to Section 2102 of the WARN Act and 20 C.F.R. §§ 639.1 - 639.10 *et seq.*, Defendant was required to provide at least 60 days prior written notice of the terminations.

27. Defendant failed to provide at least sixty (60) days prior notice to the Class Members of their terminations.

28. The Defendant failed to pay the Plaintiffs and each of the Class Members their respective wages, salary, commissions, bonuses, accrued holiday pay and accrued vacation for 60 working days following their respective terminations, and failed to make the pension and



401(k) contributions, provide other employee benefits under ERISA, and pay their medical expenses for 60 calendar days from and after the dates of their respective terminations.

29. As a result of Defendant's failure to pay the wages, benefits and other monies as asserted above, the Aggrieved Employees were damaged in an amount equal to the sum of the Class Members unpaid wages, accrued holiday pay, accrued vacation pay, accrued sick leave pay and benefits which would have been paid for a period of sixty (60) calendar days after the date of the Class Members' terminations.

**WHEREFORE**, the Plaintiffs and Class Members demand judgment against the Defendant as follows:


- a. An amount equal to the sum of: unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay pension and 401(k) contributions and other ERISA benefits that would have been covered and paid under the then applicable employee benefit plans had that coverage continued for that period for sixty (60) working days following the member employees' termination, all determined in accordance with the WARN Act;
- b. Certification that, pursuant to Fed. R. Civ. P. 23 (a) and (b) and the WARN Act, 29 U.S.C §2104(a)(5), Plaintiffs and the Class Members constitute a single class;
- c. Interest as allowed by law on the amounts owed under the preceding paragraphs;
- d. Appointment of the undersigned attorneys as Class Counsel;
- e. Appointment of Plaintiffs as the Class Representatives and payment of reasonable compensation for their services as such,
- f. The reasonable attorneys' fees and the costs and disbursements the Plaintiffs incur in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. §2104(a)(6); and

g. Such other and further relief as this Court may deem just and proper.

MARGOLIS EDELSTEIN

Dated: April 6, 2015

BY:

  
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